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## CHAPTER 4

### ADMINISTRATIVE RULE 9 AND CONFIDENTIALITY The “Green Paper Rule”

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Several court rules protect confidential information contained in court files subject to public access. [Ind. Administrative Rule 9](#) defines the confidential information and access rules for the public information in records. All confidential information must be filed on light green paper and kept separately from the file to which it pertains or in a confidential envelope that is removed from the file before provided to the public. The relevant rules are:

- [Ind. Trial Rule 5\(G\)](#)
- [Ind. Crim. Rule 1.1](#)—incorporates T.R 5(G) for criminal courts
- [Ind. Small Claims Rule 2\(E\)](#)—incorporates T. R. 5(G) for small claims courts and divisions
- [Ind. Post-Conviction Relief Rule 1](#) §3(c)—incorporates T. R. 5(G) for PCR filings
- [Ind. Alternative Dispute Resolution Rule 1.9](#)—incorporates all of T. R. 5 for ADR service
- [Ind. Appellate Rule 2\(N\)](#)—incorporates Admin. R. 9 confidentiality rules for Appellate Files including Case Record
  - [Ind. Appellate Rule 9\(J\)](#)—incorporates T.R. 5(G) for Appellate filings
- [Ind. Original Actions Rule 3\(J\)](#)—incorporates T. R. 5(G) for filings in Original Action cases
- [Ind. Tax Court Rule 3\(G\)](#) – incorporates T.R. 5(G) for Tax Court filings
- [Ind. Trial De Novo Rule 4](#)—incorporates T. R. 5(G) for appeals from City or Town Courts.

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#### Confidential Files:

- Juvenile Files: JC, JD, JS, JT, JM &JP from July 1, 1941 until July 1, 2014
- Adoption Files: AD after July 8, 1941 and AH
- MH
- Appeals from above case types

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#### Confidential Records - Ind. Administrative Rule 9(G):

- Complete Social Security Numbers
- Financial Account Numbers: including tax records and portions of financial declarations

- Medical and Tax Records
- Victims identifying information beyond name: initials only for juveniles who are sex crimes victims
- Most Child Abuse records
- Pre-sentence reports
- Some arrest and search warrants prior to execution (discretionary with Judge)
- Juror, judicial officer, clerk or other court or clerk employee information other than name
- Portions of Protection Orders
- Probation records per Judicial Conference Probation Standards
- Mediation records
- Alcohol and Drug Program confidential records as defined by the Program guidelines
- Drug Court confidential records as defined by the Program guidelines
- Expungement records
- Personal notes, emails, diary, calendars of judges, jurors, court staff and judicial agencies
- Indiana Department of Workforce Development records

**Remember that CCS entries should not contain the confidential information.**

## **Filing Procedure**

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- Attorney or filing person is responsible for following [T. R. 5\(G\)](#): if the document contains confidential information the filer
  - Should file two versions of document: white should represent what is filed without confidential information and light green should include confidential information
- Keep confidential green papers separate from public file or remove before allowing the public to view
- If filing violates [Ind. T. R. 5\(G\)](#), clerk or court staff may impound document and require attorney or filing party to resubmit on correct paper.

## **Who May See File Contents?**

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- All court records are open to the public **unless excluded**.
- [Admin. R. 9\(B\)](#) provides that certain individuals *may* have enhanced access to court records:
  - Parties and their attorneys,
  - Court staff,
  - Governmental personnel assisting in court services (i.e. law enforcement), and
  - Public agencies with access in accord with statutes or rules (i.e. guardians ad litem)

- If an attorney wants to see confidential records, they must file an appearance or prospective lawyers in juvenile paternity cases and the lawyers' agents, upon the lawyer's filing with the court an Assurance of Confidentiality in substantial compliance with the form appended to the rule.  
See [Admin. R. 9\(B\)\(2\)\(d\) and \(e\)](#).
- The Judge may restrict access to confidential records even to the parties/attorneys (i.e. adoption file records)

## **Who May Have Access to Audio/Visual Recordings**

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- Audio and visual recordings of court proceedings are considered court records and are generally accessible by the public.
- [Admin. R. 9 \(D\)](#) and [Admin. R. 10](#) allow the courts discretion when the public seeks to listen and/or make a copy of the recording without ordering a transcript. The court may schedule the listening and/or copying of the recording in a manner that doesn't substantially interfere with the resources or normal business operations of the courts.

## **Court Record on Appeal**

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- When the Clerk copies a court file for record on appeal, copy the contents in the same manner as it is filed—green paper documents must be copied on green paper for appeal
- Segregate the confidential records from the public record on appeal.
- CCS should be analyzed as well to make sure all confidential information is protected.
- [Admin. R. 9](#) and the Appellate Rules establish a protocol for filing confidential and sealed records with Indiana's appellate courts.

## **Administrative Rule 9 Handbook**

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The Division of State Court Administration has published a [handbook](#) that provides more information and frequently asked questions.

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